IN THE HIGH COURT OF UTTARANCHAL, AT NAINITAL

Criminal Revision No. 876/2001
(Old No. 943 of 1995)

Smt. Brahammo Devi ……Revisionist

Versus

Sri Dhannu Singh and others …….Respondents

Hon'ble Irshad Hussain, J.

None appear for the revisionist. Heard Sri A. Rab learned Addl. G.A. and perused the record.

The revision was preferred against the judgment and order dated 20.5.1995 passed by the then IVth Add. District and Sessions Judge, Nainital in criminal appeal no.39/1992 whereby the judgment of the learned Magistrate in criminal case no.416/1992 was set aside and the appellants were acquitted of the charges under section 147, 427 read with Section 149 IPC. Perusal of the judgment of the appellate court reveal that alleged mischief for causing damage to the property was not caused to the house which the complainant alleged to be belonging to him. From the evidence, the description of the damaged property could not be established and the appellate court, therefore, rightly found that the learned Magistrate was not justified in placing reliance on the evidence of Brahammo Devi (PW-1), Mangu Singh (PW-2) and Babu (PW-3). The appellate court has legally reappraised the evidence of the prosecution and finding was that the evidence of the prosecution witnesses were not sufficient to prove the charges of mischief being committed by the accused. There being no miscarriage of justice in appreciation of the evidence and therefore the revision is not fit to be admitted and is dismissed in limine.

(Irshad Hussain, J.)

Dated 05.04.2004

Rawat